



**GRANTED**

The moving party is hereby **ORDERED** to provide a copy of this Order to any pro se parties who have entered an appearance in this action within 10 days from the date of this order.

**R. Brooke Jackson**  
**Jefferson District Court Judge**  
DATE OF ORDER INDICATED ON ATTACHMENT

DISTRICT COURT, COUNTY OF JEFFERSON,  
COLORADO

100 Jefferson County Parkway  
Golden, Colorado 80401

STATE OF COLORADO, *ex rel.*  
John W. Suthers, Attorney General,

Plaintiff,

v.

SHERRON L. LEWIS JR., an individual; AMERICA'S  
FORECLOSURE DEFENSE, LLC, a Colorado limited  
liability company; REAL FORECLOSURE SOLUTIONS  
INC., a Colorado corporation; and LEWIS SILVER  
ROSSMAN & LEVINE, LLP, a limited liability  
partnership,

Defendants.

▲ **COURT USE ONLY** ▲

Case No.: 2010cv3537

Division: 6

Courtroom: 5B

**RULING AND PRELIMINARY INJUNCTION ORDER**

The Court, having reviewed the Complaint, Plaintiff's Motion for Preliminary Injunction, the Investigator affidavit and victim affidavits attached to the Motion, and having conducted on August 13, 2010, a hearing during which testimony, affidavits, and exhibits were admitted into evidence, and being fully advised in the premises,

ORDERS that a preliminary injunction is entered against all Defendants, including Sherron L. Lewis Jr. individually, for the reasons set forth below. In accordance with C.R.C.P. 65(a) and C.R.S. § 6-1-110(1), this Order shall remain in effect until final judgment in this case is entered.

**Ruling on Attempted Removal**

1. As an initial matter, the Court finds that Defendants' attempted notice of removal to federal court is improper under 28 U.S.C. § 1441(a), because it is not removed "to the district

court of the United States for the district and division embracing the place where such action is pending.” Moreover, the attempted removal did not comply with the procedures for removal of actions under 28 U.S.C. § 1446. Accordingly, this Court retains jurisdiction.

### **Ruling on Motion to Dismiss**

2. The Court denies Defendant Lewis’s Motion to Dismiss and Notice of Bankruptcy filed on August 9, 2010. The State of Colorado’s law enforcement action under the Colorado Consumer Protection Act (CCPA), C.R.S. §§ 6-1-101 – 6-1-1120, (2009), is expressly exempted from the Bankruptcy Code’s automatic stay, because it is a “commencement or continuation of an action or proceeding by a governmental unit . . . to enforce such governmental unit’s or organization’s police and regulatory power. . . .” 11 U.S.C. § 362(b)(4). *See also* *People v. Kelley*, 895 P.2d 1080, 1081-82 (Colo. App. 1994) (observing that Section 362(b)(4) “is directed to other government enforcement powers such as civil or administrative proceedings to enforce governmental police or regulatory power.”); *U.S. v. Standard Metals Corp.*, 49 B.R. 623, 625 (D. Colo. 1985) (“It is the purpose of § 362(b)(4) to prevent endangerment of the public that would result from permitting a bankrupt to avoid statutes and regulations enacted in furtherance of governmental police powers.”).

### **Preliminary Injunction**

3. This Court has jurisdiction in the matter presented herein by virtue of section 6-1-110(1), C.R.S. (2009) and Rule 65, C.R.C.P.

4. This Court is expressly authorized to issue a preliminary injunction to enjoin ongoing violations of the CCPA by § 6-1-110(1):

(1) Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in any deceptive trade practice listed in section 6-1-105 or part 7 of this article, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by such person of any such deceptive trade practice or which may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or to prevent any unjust enrichment by any person through the use or employment of any deceptive trade practice.

§ 6-1-110(1), C.R.S. (2009).

5. Plaintiff has demonstrated specific facts by testimony and affidavit that Defendants' deceptive practices are injurious to the public and that continued violations, if not enjoined, will cause immediate and irreparable injury, loss or damage. *Baseline Farms Two, LLP v. Hennings*, 26 P.3d 1209, 1212 (Colo. App. 2001); *Lloyd A. Fry Roofing Co. v. State Department of Air Pollution*, 191 Colo. 463, 553 P.2d 200 (1976). The Court expressly finds that immediate and irreparable injury to additional consumers will occur without a preliminary injunction because Defendants may continue to obtain unlawful fees and interests in property from consumers by deceptive and misleading representations and because Defendants' deceptive conduct may preclude those consumers from obtaining legitimate assistance with foreclosures or transferring their property in the marketplace. If not enjoined, Defendant Lewis will likely continue to engage in the unauthorized practice of law, collect upfront fees, and acquire property interests in violation of the Colorado Foreclosure Protection Act, §§ 6-1-1101 – 6-1-1120, C.R.S. (2009). If not enjoined, Defendant Lewis will likely continue to defraud consumers and lenders through deceptive, misleading, and unlawful conduct.

6. Accordingly, the Court finds that Plaintiff has established:

- a) there is a reasonable probability of success on the merits;
- b) there is a danger of real, immediate and irreparable injury which may be prevented by injunctive relief;
- c) there is no plain, speedy and adequate remedy at law;
- d) the granting of the preliminary injunction will not disserve the public interest;
- e) the balance of the equities favors entering an injunction; and
- f) the injunction will preserve the status quo pending a trial on the merits.

*Rathke v. MacFarlane*, 648 P.2d 648, 653–654 (Colo. 1982).

7. Defendants will suffer no undue hardship by the entry of a preliminary injunction because Defendants have no right to continue to engage in unlawful and deceptive trade practices or collect money from consumers as a result of such unlawful and deceptive conduct in violation of the CCPA. Further, Defendants have no right to unjustly benefit from such deceptive trade practices. Without an injunction, Plaintiff will be unable to adequately protect the public from Defendants' ongoing unlawful activities.

8. Pursuant to Rule 65(c) C.R.C.P., Plaintiff is not required to provide a security bond.

**IT IS HEREBY ORDERED PURSUANT TO C.R.S. § 6-1-110(1) AND C.R.C.P. 65:**

A. Defendants, including Sherron L. Lewis Jr. individually, and any other persons under their control or in active concert or participation with Defendants who receive actual notice of this Court's order, are hereby enjoined from:

- (1) Soliciting or accepting payment for services of any kind in connection with foreclosure or mortgage assistance, foreclosure or mortgage relief, foreclosure or mortgage consulting, mortgages, or real estate;
- (2) Providing any advice, consultation, direction, instructions, or recommendations to any person concerning any legal proceeding, legal event, including foreclosure notices or proceedings, or legal transaction, including the preparation of legal pleadings;
- (3) Advertising, selling, marketing, displaying, offering or performing foreclosure or mortgage assistance, foreclosure or mortgage relief, foreclosure or mortgage consulting, mortgages, or real estate services; and
- (4) Publishing, distributing or disseminating any information, including written, oral, or video, relating to foreclosure or mortgage assistance, foreclosure or mortgage relief, foreclosure or mortgage consulting, mortgages, or real estate.

B. Defendants, including Sherron L. Lewis Jr. individually, and any other persons under their control or in active concert or participation with Defendants who receive actual notice of this Court's order, are hereby required to:

- (a) Deactivate **no later than August 20, 2010** all Internet sites, domain names, URL addresses, registrations, and any other forms or materials that advertise, market, discuss, or solicit any business relating to foreclosure or mortgage relief, foreclosure or mortgage assistance, or legal issues relating to foreclosure;
- (b) Produce to the Colorado Attorney General's Office in writing **no later than August 20, 2010** a complete list by name, address, and telephone number of each person, in Colorado and other states, with whom any Defendant has entered into an agreement, including co-partnership agreement, warranty deed, or otherwise, since June 1, 2006 regarding foreclosure assistance or consultation;
- (c) Produce to the Colorado Attorney General's Office in writing **no later than August 20, 2010** a complete list by name, address, and telephone number of each person, in Colorado and other states, with whom Sherron L. Lewis Jr. has provided any advice or consultation regarding legal issues involving a foreclosure, including parties, the case number, jurisdiction, and outcome of case; and

(d) Release in writing **no later than August 20, 2010** any claim or interest in real property owned, in part or in whole, by Luis E. Castro, George A. Castro, Richard Mack Jr., Deutsche Bank Trust Company (for 1680 South Decatur Street, Denver, CO 80219), and Norma C. Williams, including releasing any lis pendens, liens or other claims relating to those properties, transferring any and all interests, and notifying the courts of such release in pending legal actions affecting those properties. This requirement includes notifying in writing the United States Bankruptcy Court for the Northern District of Illinois in the case, *In re Sherron Lewis Jr.*, No. 10-16195, of this Preliminary Injunction Order and the release and transfer of any claim or interest to the above properties **no later than August 20, 2010**; and

(e) Provide a status report and certification to the Court **no later than August 24, 2010** that Defendants have complied with the foregoing (a) through (d).

C. Defendants, including Sherron L. Lewis Jr. individually, and any other persons under their control or in active concert or participation with Defendants who receive actual notice of this Court's order, are hereby required under C.R.C.P. 65(f) to:

I. Restore to Luis E. Castro the sum of **\$24,000.00** through payment to the Colorado Attorney General's Office to be held in trust for the benefit of and disbursed to Luis E. Castro;

II. Restore to Norma C. Williams the fair market rental value for her home at 1010 N. Western Avenue, Park Ridge, IL 60068, between April 1, 2009 and July 31, 2010 in the amount of \$2,700 per month for a total of **\$40,050.00** through payment to the Colorado Attorney General's Office to be held in trust for the benefit of and disbursed to Norma C. Williams;

III. Restore to Norma C. Williams immediate possession of her property at 1010 N. Western Avenue, Park Ridge, IL 60068. This order applies to any tenant or associate of Defendant Lewis, and Defendant Lewis is ordered to ensure that possession is immediately surrendered without challenge;

IV. Restore to Deutsche Bank Trust Company or its servicer the fair rental value for the property at 1680 South Decatur Street, Denver, CO 80219, between April 15, 2009 and July 15, 2010 in the amount of \$800 per month for a total of **\$12,000.00** through payment to the Colorado Attorney General's Office to be held in trust for the benefit of and disbursed to Deutsche Bank Trust Company or its servicer; and

V. Restore to Deutsche Bank Trust Company or its servicer immediate possession of the property at 1680 South Decatur Street, Denver, CO 80219.

The above monetary obligations of this mandatory injunction under C.R.C.P. 65(f) become due and payable by Defendant Lewis upon dismissal of the bankruptcy case, *In re Sherron Lewis Jr.*, No. 10-16195, United States Bankruptcy Court in the Northern District of

Illinois, or upon any order from the Bankruptcy Court in that case regarding enforcement of the payment obligations, whichever is sooner.

ENTERED this \_\_\_\_ day of August 2010.

BY THE COURT:

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Honorable R. Brooke Jackson  
District Court Judge

This document constitutes a ruling of the court and should be treated as such.

**Court:** CO Jefferson County District Court 1st JD

**File & Serve**

**Transaction ID:** 32672854

**Current Date:** Aug 16, 2010

**Case Number:** 2010CV3537

**Case Name:** STATE OF COLORADO OFFICE OF THE ATTORNEY vs. LEWIS, SHERRON L JR et al

**Court Authorizer:** Brooke Jackson

/s/ **Judge Brooke Jackson**